

IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 697 OF 1999

Sunil L. Yadav

Petitioner

Vs.

The State of Maharashtra

Respondent

Mr. R. K. Mendadkar, Advocate for the petitioner.

Mr. R. D. Rane, Govt. Pleader for respondent nos.1 and 2.

Mr. R. S. Pai with Ms. Sarika Deshpande i/b Naresh Mehta & Co. for respondent No.3.

**CORAM: F.I. REBELLO,
AND
R. V. MORE, JJ.**

DATE : JANUARY 10, 2007.

P.C.

. The petitioner is in the employment of respondent no.3. He was appointed against reserved post, as the petitioner had produced caste certificate, showing that he belongs to Mahadeo Koli, which is a notified Scheduled Tribe. Respondent No. 3 forwarded the certificate to the Scrutiny Committee, constituted for that purpose. The Committee on considering all the materials placed before it, by order dated 8-12-1990 negatived the claim of the petitioner that he belongs to Mahadeo Koli, Scheduled Tribe. Respondent no.3 based on the decision of the

Committee has issued a show cause notice to the petitioner, proposing to conduct an inquiry, for the acts of "gross mis-conduct" in terms of Bi-partite Settlements and other service conditions. The petitioner by the present petition has challenged the impugned order passed by the Scrutiny Committee dated 8-12-1998.

2. At the hearing of this petition, on behalf of the petitioner the learned counsel submits that the impugned order be set aside on the grounds that -

(i) the Scrutiny Committee did not take into consideration the service book of the paternal real uncle of the petitioner Vishnu Antu Koli. The said document is of the year 1941, which shows the tribe of the petitioner as Mahadeo Koli

(ii) secondly, it is submitted that the Committee did not correctly address itself to the issue of tribal traits and characteristics

And on these counts , he submitted that the order

is liable to be quashed and set aside.

2. We have heard the learned counsel for the parties and the various submissions. From the record of the Committee we find that there were two relevant documents before the Committee - (i) the school leaving certificate of the petitioner's father Laxman Antu Koli of the year 1946 which shows that the petitioner's father was belonging to "Hindu Koli" and (2) the school leaving certificate of the petitioner's uncle Balu Antu Koli, which is of the year 1931 wherein the caste is recorded as "Koli". In terms of the law declared by the Apex Court in the case of **Madhuri Patil**, these documents being pre-Constitutional documents, have high probative value. The document relied upon by the petitioner, is entry in the service record of his uncle Vishnu Antu Koli. The School Leaving Certificate of Vishnu Antu Koli was however, not placed before the Committee. The documents of the petitioner father's school leaving certificate and his uncle Balu came on record, pursuant to the vigilance enquiry. These documents were made available to the petitioner to give his say on the said documents. No proper explanation was given. Once there being documents of pre-Constitution

period and more so, the school leaving certificate of the father of the petitioner of the year 1946 itself and another of the document is of uncle of the petitioner, of the year 1931, we do not find that the order of the Committee in coming to the conclusion that those documents have probative value suffers from any illegality. Apart from that, the Committee sought information as to Tribal traits and characteristics. Based on the information, the Committee arrived at the conclusion that the petitioner was unable to show that he belonged to Mahadeo Koli, a Scheduled Tribe and held that the information given indicates that petitioner belongs to Koli caste, which is a special backward class in a State of Maharashtra.

3. Considering the above, we are clearly of the opinion that the impugned order does not suffer from any illegality, nor discloses any error of law apparent on record. There is also no procedural infirmity, in following the procedure before the Committee. In the light of this, we do not think it proper to interfere in the exercise of our extraordinary jurisdiction.

4. It is the case of the petitioner that respondent no.2 should not invoke the harsh punishment of dismissal which will have the effect of depriving him benefits. It would be open to the petitioner to place all such material before the respondent no.3 and it is for respondent 3 after considering the facts and circumstances to take appropriate decision.

. With the above observation, rule is discharged, with no order as to costs.

[R. V. MORE, J.]

[F.I. REBELLO, J.]